SUPREME COURT OF APPEALS OF VIRGINIA.

TAYLOR v. COMMONWEALTH.

June 10, 1915.

[85 S. E. 499.]

1. **Criminal Law (§ 403*)—Secondary Evidence—Triplicate Instruments—Loss of Original.**—Where an instrument was made in triplicate on a billing machine, and the original was lost, one of the copies was admissible in evidence.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. § 889; Dec. Dig. § 403.* 4 Va.-W. Va. Enc. Dig. 83; 14 Va.-W. Va. Enc. Dig. 285; 15 Va.-W. Va. Enc. Dig. 239.]

2. **Criminal Law (§ 417*)—Evidence—Admissibility.**—A letter written to accused by his attorney, advising him as to the law governing the offense charged, is irrelevant and immaterial.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. §§ 950-967; Dec. Dig. § 417.* 4 Va.-W. Va. Enc. Dig. 82; 14 Va.-W. Va. Enc. Dig. 285; 15 Va.-W. Va. Enc. Dig. 239.]

3. **Criminal Law (§ 696*)—Evidence—Objections—General Objection.**—A general objection to the admission of evidence, admissible against accused for any purpose, is properly overruled.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. §§ 1639-1644; Dec. Dig. § 696.* 4 Va.-W. Va. Enc. Dig. 82; 14 Va.-W. Va. Enc. Dig. 285; 15 Va.-W. Va. Enc. Dig. 239.]

4. **Witnesses (§ 277*)—Impeachment—Cross-Examination.**—Where accused, charged with delivering intoxicating liquors, testified that he had no reason to believe that the shipment was not made in good faith, a cross-examination, disclosing that about the same time accused also delivered liquor on other orders in the same handwriting, was proper to discredit his testimony.

[Ed. Note.—For other cases, see Witnesses, Cent. Dig. §§ 925, 979-983; Dec. Dig. § 277.* 13 Va.-W. Va. Enc. Dig. 957; 14 Va.-W. Va. Enc. Dig. 1099; 15 Va.-W. Va. Enc. Dig. 1097.]

5. **Constitutional Law (§ 48*)—Statutes—Validity.**—A statute will not be declared unconstitutional unless its repugnancy to the Constitution is palpably plain.

[Ed. Note.—For other cases, see Constitutional Law, Cent. Dig. § 46; Dec. Dig. § 48.* 3 Va.-W. Va. Enc. Dig. 152; 14 Va.-W. Va. Enc. Dig. 228; 15 Va.-W. Va. Enc. Dig. 192.]

6. **Commerce (§ 9*)—Interstate Commerce—Regulation—Statutes—Validity.**—Webb-Kenyon Act March 1, 1913, c. 90, 37 Stat. 699 (U. S. Comp. St. 1913, § 8739), prohibiting the shipment of intoxicating liquors from one state into any other state, to be received or sold

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

in violation of any law of the latter state, is a valid exercise of the legislative authority of Congress to regulate commerce.

[Ed. Note.—For other cases, see Commerce, Cent. Dig. § 6; Dec. Dig. § 9.* 7 Va.-W. Va. Enc. Dig. 866; 14 Va.-W. Va. Enc. Dig. 576; 15 Va.-W. Va. Enc. Dig. 528.]

Error to Circuit Court, Accomac County.

One Taylor was convicted of crime, and he brings error. Affirmed.

Jeffries & Jeffries and *Jeffries, Wolcott, Wolcott & Lankford,* all of Norfolk, for plaintiff in error.

The Attorney General, for the Commonwealth.

KEITH, P. The indictment found against Taylor in this case shows that he is an operator, agent, clerk, and occupant of a storeroom and office of the Baltimore, Chesapeake & Atlantic Railway Company, in Pungoteague magisterial district, in the county of Accomac, in which district the sale of wine, ardent spirits, spirituous, and malt liquors, intoxicating liquors, or any mixture thereof was prohibited by law; that he did on the —— day of May, 1913, in the said district, in the county aforesaid, unlawfully deliver wine, malt liquors, and intoxicating spirits to a person other than the person to whom said wine, ardent spirits, and intoxicating liquors were billed and shipped, or in good faith addressed, or to said consignee's employee upon the written order of said consignee, to wit, a package of ardent spirits and intoxicating liquors billed, shipped, and addressed to Tom Moore; and that he, the said Taylor, did then and there unlawfully deliver the said package to one James Metcalf, said Metcalf not being the person to whom the said package was billed, shipped, and in good faith addressed, or the employee of the said Tom Moore, and without the written order of the said Tom Moore, against the peace and dignity of the commonwealth.

To this indictment he pleaded not guilty, a trial of the issue joined upon that plea resulting in a verdict and judgment assessing a fine against him of $50, which the court refused to set aside, overruled the defendant's motion in arrest of judgment, and entered judgment against him for the payment of the fine, and in addition thereto sentenced him to confinement in the jail of Accomac county for 30 days; and the case is before us upon a writ of error to that judgment.

A number of errors were assigned during the progress of the trial to the rulings of the court admitting testimony over the objection of plaintiff in error.

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

[1] The first bill of exceptions is to the admission in evidence of a copy of the manifests of the steamer Eastern Shore, made up for the 11th of May, 1913, which was introduced while Edgar Northam, the assistant purser of the steamer, was on the stand. The manifests showed that on that day there had been consigned to Tom Moore two barrels of liquor weighing 500 pounds, two boxes of liquor weighing 500 pounds, and one barrel of beer weighing 250 pounds. The contention is that as these manifests were not made by Taylor, or under his direction, they should not have been received as evidence against him.

It appears that the manifests were made on an Underwood billing machine, in triplicate, by the assistant purser, whose duty it was to take the shippers' bills of lading, check the freight for each wharf, and make off the manifests therefrom. The original copy was turned in to the auditor of the company, the second sent to the agent in Baltimore, and the third to the agent on the wharf, the defendant, Taylor. The witness testified that he left a copy with F. C. Taylor, the agent at Boggs Wharf, and that it was checked as delivered.

We think that there was no error in the ruling of the court admitting this testimony, upon the authority of the case of C. & O. Ry. Co. v. Stock, 104 Va. 97, 51 S. E. 161, where it was held that:

"A carbon copy of a paper made by the same impression of type as the original and at the same time (but not a letter press copy) may be regarded as a duplicate original, and may be introduced in evidence without notice to the opposite party to produce the other."

The case before us is stengthened by the fact that the original is conclusively shown to have been lost.

[2] Bill of exceptions No. 2 is to the ruling of the court refusing to admit in evidence a letter offered by the defendant from his attorney in Baltimore, advising him as to the law governing the delivery of liquor. The letter was written with respect to a consignment made some months prior in point of time to that which was the subject of investigation in this case, but we shall not place our ruling upon that narrow ground, as we think the testimony wholly irrelevant and immaterial. See Bishop's New Cr. L. cl. 3, § 294, and authorities there cited.

[3, 4] During the progress of the trial the accused was put upon the stand as a witness in his own behalf, and upon his cross-examination was shown a number of other orders than the one signed by Tom Moore and the one referred to in the indictment, and the witness was interrogated with respect thereto, and they were offered in evidence, to all of which the accused, by counsel, objected, but the court overruled the ob-

jection, and permitted the questions to be asked and the orders to be introduced; and this ruling is the subject of the third bill of exceptions.

From the evidence of several witnesses it appears that about the same time the witness delivered the liquors consigned to Tom Moore he delivered a great number of other liquors upon orders in the same handwriting to Metcalf or Boloate. The objection to the evidence was a general one, and if it were admissible for any purpose the ruling of the trial court must be maintained.

There are two theories urged with reference to the crime defined by the statute. One is that the crime belongs to that class which are indictable irrespective of guilty knowledge, in which case the agent who delivered the intoxicating liquor to any person other than the person to whom it was addressed, or to his employee upon the written order of the consignee, would be guilty of the offense charged in the statute, whether he had reason to believe that the person to whom the liquor was delivered was the bona fide consignee of his employee or not. On the other hand it is contended, and this law is maintained by the defense, that the crime denounced by the statute is not indictable irrespective of intent, thereby making the scienter relevant. Upon that theory, it would seem that the evidence objected to was properly admitted.

In Cluverius *v.* Commonwealth, 81 Va. 787, the objection to the admission of evidence was a general one. The prisoner did not ask the court to place any limitation upon the effect of the evidence, and the court held, citing Taylor on Evidence, vol. 2, p. 1157, that where evidence was offered for a particular purpose, if the judge pronounces in favor of its general admissibility in the cause, the court will support his decision, provided the evidence be admissible for any purpose. Upon this point this case has been frequently cited with approval by this court. Flick's Case, 97 Va. 775, 34 S. E. 39; Meyers *v.* Falk, 99 Va. 389, 38 S. E. 178; Wright's Case, 109 Va. 865, 65 S. E. 19.

But in any event we think the evidence was admissible as tending to discredit the testimony of Taylor, who testified in his own behalf, and who had stated that he had no reason to believe that the shipment to Tom Moore was not made in good faith; and the tendency of this evidence was to show that Taylor did have reason to believe and the evidence was relevant and proper for that purpose. The objection to its introduction being a general one, it falls within the influence of the principle announced in the Cluverius Case, supra.

The fourth bill of exceptions is to the introduction of a letter from C. W. Chambers to the defendant. We think this letter was clearly admissible, if for no other purpose, as impeaching

the good faith of Taylor and affecting his credibility as a witness, he having testified, as we have already said in connection with bill of exceptions No. 3, that he had no reason to question the good faith of the shipment to Tom Moore. In this case also, the objection to the admissibility of the testimony was general, and, if admissible for any purpose, the objection to its admission must be overruled.

Bills of exceptions 5, 6, and 7 present similar questions, and need not be specifically discussed.

We have examined the instructions offered, given, and refused, and think that those given fairly submit the issues to the jury, and that with respect to those which the court refused it committed no error.

Upon the evidence we are of opinion that the offense was clearly proved, and that the judgment must be affirmed, unless, as the plaintiff in error contends, the act under which he was prosecuted is unconstitutional as trenching upon the authority of Congress to regulate commerce; and this brings us to the consideration of the statute known as the Webb-Kenyon law, which we shall briefly consider.

[5] We need not enlarge upon the principles which govern this court in passing upon the constitutionality of a law. The statute is not to be annulled unless its repugnancy to the Constitution be palpable and plain, and to doubt upon the subject is to affirm the constitutionality of the law in question.

[6] In Bowman *v.* Chicago, etc., Ry. Co., 125 U. S. 465, 8 Sup. Ct. 689, 1062, 31 L. Ed. 700, the Supreme Court held that a statute of the state of Iowa, forbidding any common carrier to bring within that state intoxicating liquors from any other state or territory, without having procured the certificate required by the state statute, was a regulation of commerce among the states, and therefore void; and this decision was approved and extended in Leisy *v.* Hardin, 135 U. S. 100, 10 Sup. Ct. 681, 34 L. Ed. 128, where the court held that:

"The power to prescribe the rule by which that commerce is to be governed is a power complete in itself, acknowledging no limitations other than those prescribed in the Constitution. It is coextensive with the subject on which it acts, and cannot be stopped at the external boundary of a state, but must enter its interior and must be capable of authorizing the disposition of those articles which it introduces, so that they may become mingled with the common mass of property within the territory entered."

It was by these decisions established that the state could not control the disposition of intoxicating liquors imported from another state or territory so long as they remained in the original

package. This situation led to the passage of what is known as the Wilson bill, which reads as follows:

"That all fermented, distilled or other intoxicating liquors or liquids transported into any state or territory, or remaining therein for use, consumption, sale or storage therein, shall, upon arrival in such state or territory, be subject to the operation and effect of the laws of such state or territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquids or liquors had been produced in such state or territory, and shall not be exempted therefrom by reason of being introduced therein by original packages or otherwise." Act Aug. 8, 1890, c. 728, 26 Stat. 313 (U. S. Comp. St. 1913, § 8738).

This statute led to further litigation, and in Rahrer's Case, 140 U. S. 545, 11 Sup. Ct. 865, 35 L. Ed. 572, the Wilson bill was attacked as an attempt to delegate to the states the power to regulate commerce, and the court held that no such delegation had been attempted by Congress, but that it had—"taken its own course and made its own regulation, applying to these subjects of interstate commerce one common rule, whose uniformity is not affected by variations in state laws in dealing with such property. * * * No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so."

And in Rhodes *v.* Iowa, 170 U. S. 412, 18 Sup. Ct. 664, 42 L. Ed. 1088, the same statute is construed as to the phrase, "arrival in such state," and the court held that this language meant arrival in the hands of the consignee, and that consignments of liquor which had been shipped from one state into another were not subject to state police laws while being moved from the platform of the railway station to a freight warehouse. This decision postponed the taking effect of laws enacted under the police powers of the state until the liquor had been delivered by the carrier to the consignee.

These cases marked a step, and an important one, in the exercise by the states of their police power with respect to the importation of intoxicating spirits. In the beginning, as we have seen, the liquors imported did not pass under the control of the state until they had become mingled with the common mass of property in the territory entered, while by virtue of the Wilson bill and the decisions construing it, the control of the state was accelerated and was established when the imported liquors arrived in the state: that is to say, had been delivered to the consignee, though still remaining in the original package. Under

the Wilson bill it is held that a state law is invalid, in so far as it attempts to prevent residents of a state from importing liquors for their own use (Vance v. Vandercook, 170 U. S. 438, 18 Sup. Ct. 674, 42 L. Ed. 1100), and that a state prohibition law cannot affect cash on delivery shipments of liquor to persons who purchase the same for their own use and consumption (American Express Co. v. Iowa, 196 U. S. 133, 25 Sup. Ct. 182, 49 L. Ed. 417).

In order to meet these decisions, Congress passed what is known as the Webb-Kenyon Act, so much of which as is pertinent to the matter under discussion is as follows:

"An act divesting intoxicating liquors of their interstate character in certain cases.

"Be it enacted, etc., that the shipment or transportation, in any manner or by any means whatsoever, of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, from one state, * * * into any other state, * * * or from any foreign country into any state, * * * which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended by any person interested therein, to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such state, * * * is hereby prohibited."

This statute has been before the courts of many states, and has been unanimously upheld. Atkinson v. Southern Express Co., 94 S. C. 444, 78 S. E. 516, 48 L. R. A. (N. S.) 349; State v. Grier (Del. Gen. Sess.), 88 Atl. 579; State v. U. S. Exp. Co. (Iowa), 145 N. W. 451; State v. Doe, 92 Kan. 212, 139 Pac. 1169; Van Winkle Co. v. State (Del.), 91 Atl. 385; Am. Exp. Co v. Beer (Miss.), 65 South. 575; Southern Exp. Co. v. State (Ala.), 66 South. 115; Adams Exp. Co. v. Com., 160 Ky. 66, 169 S. W. 603; Palmer v. Southern Exp. Co., 129 Tenn. 116, 165 S. W. 236.

The constitutionality of this law has also been upheld in numerous cases in the federal courts. See U. S. v. Oregon, etc., Ry. (D. C.), 210 Fed. 378; and in State of West Virginia v. Adams Exp. Co. (C. C. A.) 219 Fed. 794, in the Circuit Court of Appeals for the Fourth Circuit, Judge Woods, delivering the opinion, after an exhaustive examination of the entire subject, both upon principle and authority, upholds the validity of the Webb-Kenyon law in a convincing opinion.

When we consider the broad and comprehensive terms by which Congress is clothed with the power to regulate commerce, the opinions delivered in cases in the Supreme Court which we have cited, the strong and unbroken current of authority in the appellate courts of many states, concurred in by such inferior

federal courts as have had the question under consideration, we are not only unable to say that the act in question is plainly unconstitutional, but we are satisfied that it is a valid and constitutional exercise of legislative authority on the part of Congress. And we deem it not amiss to say that it is a subject of congratulation to find that the Congress has been responsive in this matter to the will of the people, and has coöperated with the states in their effort to regulate commerce in intoxicating liquors, a subject upon which there is substantial unanimity of opinion, the diversity existing not as to the object in view, but as to the means most efficient in its attainment.

The judgment of the circuit court of Accomac is affirmed.

Affirmed.

Note.

Webb-Kenyon Act.—To remedy the evils of the Wilson Act, Congress in March, 1913, passed the Webb-Kenyon bill, by which it was made unlawful to transport into a state intoxicating liquor "intended by any person interested therein to be received, possessed, sold or in any manner used * * * in violation of any law of such state." The constitutionality of this law was much discussed during its consideration by the legislative and executive departments of the government, and lawyers of eminent ability differed in regard thereto. Since its passage it has been the subject of judicial consideration in a few cases. It has been held unconstitutional by a nisi prius court in Iowa and possibly has been so regarded by Judge Willard, United States District Judge for the District of Minnesota. United States *v.* Oregon-Washington R. & N. Co., 210 Federal Rep. 378, 380 But in all other cases the courts in one accord have upheld the constitutionality of this law. Atkinson *v.* Southern Express Co., 94 S. C. 444, 78 S. E. 516, 48 L. R. A. (N. S.) 349; State *v.* Grier (Del.), 88 Atl. 579; State *v.* U. S. Express Co. (Iowa), 145 N. W. 451; State *v.* Doe, 92 Kans. 212, 139 Pac. 1169; Van Winkle Co. *v.* State (Del.), 91 Atl, 385; Am. Exp. Co. *v.* Beer (Miss.), 65 So. 575; So. Exp. Co. *v.* State (Ala.), 66 So. 115; Adams Exp. Co. *v.* Com., 160 Ky. 66, 160 S. W. 603; Palmer *v.* Southern Exp. Co., 129 Tenn. 116, 165 S. W. 236; Taylor *v.* Comm. (Va.), 85 S. E. 499; State *v.* Seaboard Air Line Ry. Co. (N. C.), 84 S. E. 283; U. S. Oregon, etc., Ry. (D. C.), 210 Fed. 278; State of W. Va. *v.* Aooms Exp. Co. (C. C. A.), 219 Fed. 794. So uniform have been these holdings, by state and lower Federal courts, that the point may be considered to be fairly well settled in such courts. Just what the U. S. Supreme Court will hold, when the point arises, is yet to be seen. But it seems reasonable to suppose that this court too will uphold the constitutionality of the bill upon reason and principle and abide by the holdings of the state and lower Federal courts.

The power vested in Congress to 'regulate commerce with foreign nations, and among several states, and with the Indian Tribes,' is the power to prescribe the rule by which that commerce is to be governed, and is a power complete in itself, acknowledging no limitations other than those prescribed in the constitution. It is coextensive with the subject on which it acts and cannot be stopped at the external boundary of a state, but must enter its interior and must be capable of authorizing the disposition of those articles which it introduces, so that they may become mingled with the com-

mon mass of property within the territory entered. Gibbons *v.* Ogden, 22 U. S. (Wheat.) 1, 6 L. Ed. 23; Brown *v.* Maryland, 25 U. S. (12 Wheat.) 419, 6 L. Ed. 23; Brown *v.* Maryland, 25 U. S. (12 Wheat.) 419, 6 L. Ed. 678; Leisy *v.* Hardin, 135 U. S. 100, 10 Sup. Ct. 681, 34 L. Ed. 128. The power to regulate commerce includes the power to declare what property or things may be the subject of commerce, and therefore Congress has the power to prescribe what articles of merchandise shall not be the subject of interstate or foreign commerce. License Cases, 46 U. S. (5 How.) 504, 12 L. Ed. 256; Bowman *v.* Chicago, etc., R. Co., 125 U. S. 465, 8 Sup. Ct. 689, 1062, 31 L. Ed. 700; Leisy *v.* Hardin, 135 U. S. 100, 10 Sup. Ct. 681, 34 L. Ed. 135; United States *v.* Gould, 25 Fed. Cas. No. 15,239; United States *v.* The William, Fed. Cas. No. 16,700; Charge to Grand Jury, Fed. Cas. No. 18,269a. This power to exclude any commodity from interstate commerce is as broad as the power to regulate from which it is derived. No limitation upon this power is contained in the commerce clause, and no such limitation contained in any other section of the Constitution. In the License Cases, supra Chief Justice Taney expressly stated that "Congress, under its general power to regulate commerce with foreign nations, may prescribe what articles of merchandise shall be admitted, and what excluded; and may therefore admit or not, as it shall deem best, the importation of ardent spirits." American Express Co. *v.* Beerm, 65 So. 575, 580.

Since Congress had the authority to adopt the Wilson act, providing that interstate shipments of intoxicating liquors, should become subject to state laws upon their delivery to the consignee, it could also adopt the Webb-Kenyon act prohibiting the transportation of intoxicating liquors into a state, to be used in violation of the state law, thereby divesting such shipments of their protection under the commerce clause of the federal Constitution as soon as they reach the state line. State *v.* Grier (Del.), 88 Atl. 579; Southern Exp. Co. *v.* State (Ala.), 66 So. 115; State *v.* Seaboard Air Line Ry. (N. C.), 84 S. E. 283; Taylor *v.* Wildman (Iowa), 145 N. W. 449.

It has been contended that the Webb-Kenyon act is not complete in itself, but is simply a delegation of power to the state to act for Congress in the matter, and for this reason unconstitutional. But this contention cannot be maintained because this act prohibiting the transportation of intoxicating liquors into a state to be used in violation of state law, thereby divesting such shipments of their protection under the commerce clause of the federal Constitution, but not expressly delegating any power to the states, is prohibitory in character, acting not upon the states, but upon articles of commerce, and is complete in itself and either permissive in its nature or adoptive of the laws of the state, and is not invalid as a delegation of power to the states to act for Congress in the regulation of interstate commerce. State *v.* U. S. Express Co. (Iowa), 145 N. W. 451; State of W. Va. *v.* Adams Exp. Co., 219 Fed. 794; State *v.* Grier (Del.), 88 Atl. 579. That the Congress has power to outlaw and exclude absolutely or conditionally from interstate commerce intoxicating liquors or any other deleterious substance has been very often decided. Ex parte Rahrer, supra; Lottery Case, 188 U. S. 321, 23 Sup. Ct. 321, 47 L. Ed. 492; Hoke *v.* United States, 227 U. S. 308, 33 Sup. Ct. 281, 57 L. Ed. 523, 43 L. R. A. (N. S.) 906, Ann. Cas. 1913E, 905; Hipolite Egg Co. *v.* United States, 220 U. S. 45, 31 Sup. Ct. 364, 55 L. Ed. 364. State of W. Va. *v.* Adams Exp. Co., 219 Fed. Rep. 794, 802. This act is an exercise of the power

of congress and not a delegation. It expressly prohibits the transportation of intoxicating liquors that is intended to be used in violation of the law of the state.

"It is said, however, that the act denies the equal protection of laws in that it does not apply to all alike; that, if the act had forbidden the shipment of all liquors in interstate commerce, it might be valid, but that, as it does not do so, it gives privileges and immunities to some persons not possessed by others. This too is fallacious, in that it overlooks the undoubted right of Congress to prohibit some shipments in interstate commerce and to permit others. The real question here is: Is the classification arbitrary, and unjust, and based upon no substantial difference? The classification is manifestly just, or at least it is not arbitrary. It applies to all in a like situation. Congress has passed acts forbidding the interstate shipment of adulterated foods, of falsely labeled food, of obscene literature, of explosives, of diseased cattle, of women, under certain conditions; of commodities owned by railroads other than lumber; has declared intoxicating liquors nonmailable; prohibited C. O. D. shipments of liquor, and the false marking of packages containing liquor. But more important still, the supreme court of the United States has upheld a state statute prohibiting the shipment in intrastate commerce from a wet county in the state into a dry one Louisville & N. R. R. *v.* Cook, 223 U. S. 70, 32 Sup. Ct. 189, 56 L. Ed. 355." State *v.* United States Exp. Co. (Iowa), 145 N. W. 451. See Van Winkle *v.* State (Del.), 91 Atl. 385.

In the next place, this act, being uniform in its operation is not unconstitutional as giving privileges and immunities to citizens of the state not possessed by others under the same circumstances; the right to sell intoxicating liquors not being a privilege of a citizen of the United States. State *v.* United States Exp. Co. (Iowa), 145 S. W. 451; State *v.* Grier (Del.), 91 Atl. 385; State *v.* Doe (Kan.), 139 Pac. 1169.

It is manifest, of course, that under the act no one is deprived of his property without due process of law and from this standpoint the law is not unconstitutional. State *v.* United States Exp. Co. (Iowa), 145 S. W. 460; Eilenbecker *v.* Dist. Court, 134 U. S. 31; Bardier *v.* Connolly, 113 U. S. 27.

In conclusion, as a summary of the holdings so far on this important piece of legislation, no better statement can be made than that by Judge Woods in State of W. Va. *v.* Adams Exp. Co., 219 Fed. 794: "As to intoxicating liquors, though universally recognized as deleterious, the Congress has not seen fit to exclude them entirely from interstate commerce, but has made the exclusion on this condition, namely that they shall not be transported by common carriers into particular states when such transportation would be especially injurious to the public interest, in that, when they reach the state, they will derange and make inefficacious the police measures for the control of intoxicants which the state has seen fit to adopt. The courts can hardly find room to doubt that this qualified exclusion made in aid of the efforts of a number of the states of the Union to combat one of the greatest evils of human life is founded on deep reason and enlightened public policy." State of W. Va. *v.* Adams Exp. Co., 219 Fed. Rep. 794, 803.

C. N. COX